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IN THE SENATE OF THE UNITED STATES.

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JUNE 8, 1896.—Ordered to be printed.

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Mr. CAFFERY, from the Committee on Claims, submitted the following

REPORT:

[To accompany S. 2054.]

The Committee on Claims, to whom was referred the bill (S. 2054) for the relief of Rinaldo P. Smith, having considered the same, report as follows:

The firm of Smith, Ellett & Co., of Baltimore, Md., which is now represented by the claimant, Rinaldo P. Smith, appears to have had a first lien by deed of trust, duly executed, upon the land of one George J. Stephens, of Greene County, Va., dated October 26, 1869, securing to them the payment of the sum of \$8,660.44 due from said Stephens to said firm and payable October 26, 1872. Mr. Stephens also operated a distillery, and in the month of January, 1870, all the lands of Stephens upon which Smith, Ellett & Co. had a subsisting lien were advertised for sale by the Government for unpaid internal-revenue taxes, and through the deputy internal-revenue collector of that district, one A. M. Lawson, the property was put up at auction on the 12th day of January, 1871, and struck off to the Government in default of a bidder. Mr. Smith, representing his firm, appears to have been present at the sale and, after giving formal notice of the prior lien of his firm, made a bid of \$400, in addition to the amount of their lien, but Deputy Collector Lawson, acting for the Government, declined to entertain this bid and struck off the property to the Government, and a year later made conveyance to the United States by deed. The Government accepted the conveyance and held the property until June 12, 1888, when the same was sold to one Willie G. Stephens and subsequently conveyed to her heirs. During the time the Government so held possession of the property the lien of Smith, Ellett & Co. expired by limitation and they claim to have lost their debt in consequence of such interposition by the Government.

Section 3207 of the Revised Statutes, which was in force at the time this purchase by the Government appears to have been made, prescribes the method of proceeding for the sale of lands for internal-revenue taxes when prior liens exist, but the internal-revenue officer in this case does not appear to have proceeded in accordance with its provisions. Had this been done, the rights of Smith, Ellett & Co., under their lien, would have been finally adjudicated by a Federal court and settled. By the summary and apparently irregular proceeding resorted to by the internal-revenue officer they were deprived of that right.

Therefore, while the Committee on Claims do not feel justified in recommending the payment of this claim upon the ex parte case made by the claimant, they are of opinion that he ought now to have the right, of which he appears then to have been deprived, of having the law and the facts of his case adjudicated by a competent court and compensation made accordingly; and it is the judgment of the committee that the bar of the statute of limitations ought to be removed and the case submitted to the Court of Claims for adjudication.

To that end they recommend the following amendment to the accompanying bill (S. 2054), and as amended recommend that it do pass:

*Amendment proposed.*

Strike out the preamble and all after the enacting clause and insert the following:  
"That jurisdiction is hereby conferred on the Court of Claims to hear and determine the claim of Rinaldo P. Smith, of Baltimore, Maryland, against the Government of the United States on account of the sale, purchase, or occupation by the Government, through its internal-revenue officers or others, of certain real estate of one George J. Stephens in Greene County, Virginia, upon which the late firm of Smith, Ellett and Company, now represented by Rinaldo P. Smith, had a prior lien, and the right of the Government to plead the statute of limitations in bar of said claim is hereby waived: *Provided*, That said claimant file his petition within sixty days from the passage of this Act in said Court of Claims either at law or in equity, as he may deem the rights of his case shall require, and the Government shall, upon notice served according to the rules and practice of said court, appear and defend against said suit, and the same shall proceed to final hearing and judgment, with the right of appeal to the Supreme Court of the United States by either party as provided by law."